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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,912	08/04/2003	Robert M. Hunter	HRM 8750	7560

2147 7590 09/28/2004

GRACE J FISHEL  
11970 BORMAN DRIVE  
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ST. LOUIS, MO 63146

EXAMINER

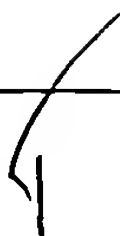
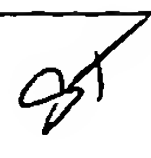
BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<div style="text-align: center;">    <b>Office Action Summary</b> </div>	<b>Application No.</b> 10/633,912	<b>Applicant(s)</b> HUNTER, ROBERT M. 	
	<b>Examiner</b> Rodney H. Bonck	<b>Art Unit</b> 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/04/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

The following is a first action on the merits of application Serial No.10/633,912, filed August 4, 2003.

### ***Information Disclosure Statement***

Receipt is acknowledged of the Information Disclosure Statement filed August 4, 2003. The cited documents have been considered.

### ***Drawings***

The substitute sheets of drawings were received on December 29, 2003. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Elliott('198).

Elliott discloses a foot-operated clutch-activating device comprising a foot-operated means 14 for engaging and disengaging a clutch 13. The device includes means for mounting the device (see Figs. 1 and 2) and pedal means 14 responsive to positive foot

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pressure for disengaging the clutch. The foot operated means further includes means 28,32 for locking the device in a clutch disengaging position and means 33 responsive to positive foot pressure for unlocking the device and returning the device to clutch engaging position, whereby the clutch may be selectively engaged and disengaged and may be held in a disengaged position without manual input. This claim does not positively recite a motorcycle in combination with the foot-operated device but rather as an intended environment for the device. Since the Elliott device could be used on a motorcycle, the claim is considered to be met by Elliott.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is further rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott('198) in view of Chartier('896). Elliott discloses a foot-operated clutch-activating device comprising a foot-operated means 14 for engaging and disengaging a clutch 13. The device includes means for mounting the device (see Figs. 1 and 2) and pedal means 14 responsive to positive foot pressure for disengaging the clutch. The foot operated means further includes means 28,32 for locking the device in a clutch disengaging position and means 33 responsive to positive foot pressure for unlocking the device and returning the device to clutch engaging position, whereby the clutch may

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be selectively engaged and disengaged and may be held in a disengaged position without manual input. The Elliott device is disclosed as being for use in an automotive vehicle, but it is not specifically disclosed as being used in a motorcycle. Even if the claim is considered to require that the device be used in a motorcycle, the claim is not considered patentable in further view of Chartier. Chartier discloses a foot operated clutch pedal in a motorcycle and discloses means for locking the clutch pedal in a clutch-disengaged position. In view of Chartier it would have been obvious to adapt the Elliott device for use in a motorcycle, the motivation being to permit the motorcycle operator to place both feet on the ground to balance the motorcycle in a stationary position.

Claims 1-3, 5, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinozaki et al.('798) in view of Chartier('896). The Shinozaki et al. device discloses a foot-activated device having a foot pedal 20, a link 25, and a shaft 22,23,30 connecting the pedal to the link. An escapement mechanism 50,62 cooperates with the shaft to selectively hold the device in one position. The Shinozaki et al. device is disclosed as being for holding a motorcycle brake pedal in a depressed, brake-engaged position. Chartier discloses providing a motorcycle with a foot activated device and a means to lock the clutch pedal in a depressed position. In view of Chartier it would have been obvious to adapt the Shinozaki et al. device to provide a foot operated clutch pedal that can be locked in its depressed position, the motivation being to permit the motorcycle operator to place both feet on the ground to balance the

motorcycle in a stationary position. In Shinozaki et al. the escapement is a pawl and ratchet.

Claims 4, 6, 7, 14, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinozaki et al.('798) in view of Chartier('896) as applied to claims 1-3, 5, and 10-13 above, and further in view of Elliott('198). In the device taught by Shinozaki et al. and Chartier, a separate device is provided to release the escapement to permit the pedal to be moved to the clutch engaged position. Elliott discloses a clutch pedal locking arrangement wherein positive pressure on the clutch pedal will release the escapement. It would have been obvious to modify Shinozaki et al. to permit release of the pawls via the cam 33 in response to pressure on the pedal, the motivation being to permit easier lock release.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shinozaki et al.('798) in view of Chartier('896) as applied to claims 1-3, 5, and 10-13 above, and further in view of Zook('926). This claim calls for a mounting plate for supporting the foot-operated device, and the Shinozaki et al. does not clearly show what structure is used to mount the device. Zook discloses a mounting plate 2 for mounting a foot-operated lever to a motorcycle to convert hand-lever operation to foot-lever operation. It would have been obvious to provide a mounting plate for the device of Shinozaki et al., the motivation being to provide support for the foot-operated activating device.

***Allowable Subject Matter***

Claims 8, 9, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Herrell('767) shows a foot-operated clutch pedal on a motorcycle. Kirst('796) and Saylor('529) disclose clutch pedal locks released by pressure on the pedal. Osborne('312) shows a clutch pedal on a motorcycle. Dennert et al.(US 2003/0222425 A1) shows an arrangement for mounting a clutch pedal 128 on a motorcycle. Particular attention is also directed to the Rush('195) patent (cited by applicant), which specifically discloses modifying a newer model motorcycle from a hand-operated clutch to a foot-operated clutch to mimic older versions.

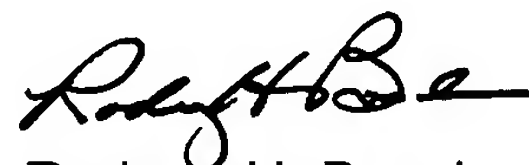
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (703)-308-2904. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703)-308-0830. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck  
Primary Examiner  
Art Unit 3681

rhb

September 22, 2004